

AMENDED IN ASSEMBLY AUGUST 24, 2012

AMENDED IN ASSEMBLY AUGUST 20, 2012

AMENDED IN ASSEMBLY AUGUST 7, 2012

AMENDED IN ASSEMBLY JUNE 18, 2012

AMENDED IN SENATE MAY 29, 2012

AMENDED IN SENATE MAY 1, 2012

AMENDED IN SENATE APRIL 16, 2012

AMENDED IN SENATE APRIL 9, 2012

## **SENATE BILL**

**No. 1128**

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**Introduced by Senator Padilla  
(Coauthor: Senator Rubio)**

February 21, 2012

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An act to amend Sections 26001, 26002, 26008, 26009, 26011, 26014, 26015, 26017, 26022, 26023, 26024, 26025, 26030, 26033, 26034, and 26035 of, to amend, repeal, and add Sections 26003 and 26011.8 of, to add Chapter 4 (commencing with Section 26050) to Division 16 of, to repeal Sections 26001.5, 26011.5, 26011.6, 26012, 26013, 26016, 26016.5, 26020, 26021, 26026, 26027, and 26081 of, and to repeal Division 16.2 (commencing with Section 26100) of, the Public Resources Code, and to amend, repeal, and add Section 6010.8 of the Revenue and Taxation Code, relating to energy.

### LEGISLATIVE COUNSEL'S DIGEST

SB 1128, as amended, Padilla. Energy: alternative energy financing.

Existing law establishes the California Alternative Energy and Advanced Transportation Financing Authority and requires the authority to establish programs to provide financial assistance to participating parties for projects related to alternative energy sources and advanced transportation projects. Existing law authorizes the authority to issue revenue bonds or other securities of up to \$1 billion in total outstanding debt as a financing mechanism for providing financial assistance to those projects.

This bill would revise and recast those provisions to, among other things, require the authority to establish programs providing financial assistance to projects for renewable energy generation facilities, combined heat and power systems, facilities designed for the production of renewable fuels, distributed generation and energy storage technologies eligible under the self-generation incentive program as determined by the Public Utilities Commission, and energy efficiency devices and technologies. The bill would eliminate the \$1 billion limitation on the amount of outstanding indebtedness the authority may incur to provide the financial assistance.

Existing law authorizes the authority, until January 1, 2021, to provide financial assistance in the form of a sales and use tax exclusion for a project to promote California-based manufacturing, California-based jobs, the reduction of greenhouse gases, or the reduction in air and water pollution or energy consumption. Existing law requires the authority, once the sales and use tax exemptions for projects exceed \$100,000,000 for a given year, to provide the Legislature with a 20-day notice prior to granting additional sales and use tax exemptions. The sales and use tax exemption applies to the transfer of title of tangible personal property constituting a project to the authority by a participating party, or a lease or transfer of title of tangible personal property constituting a project by the authority to a participating party.

This bill would additionally authorize the authority, until July 1, 2016, to grant the above financial assistance to projects that promote the utilization of advanced manufacturing, as defined. The bill would require the authority, until July 1, 2016, to study the efficacy and cost benefit of the sales and use tax exemption for advanced manufacturing projects. The bill would require the authority, before January 1, 2017, to submit to the Legislature a report on the study. The bill would require the authority, before January 1, 2015, to submit to the Legislature an interim report on the efficacy of granting the sales and use tax exemption for projects, and recommendations on changes that would increase the

efficacy in creating jobs and whether the exemption should be expanded or narrowed. The bill would require the Governor's Office of Business and Economic Development to consult with the Legislative Analyst's Office, among others, to review and identify efficient and cost-effective methods for the state to create jobs in advanced manufacturing. The bill would require the Governor's Office of Business and Economic Development to report its findings to the Legislature by January 1, 2017. The bill would require the authority, until January 1, 2021, to work with the University of California or the California State University to perform a peer review of the net benefits test, as described, used to evaluate applicants applying for the sales and use tax exemption, as specified. The bill would instead prohibit the authority from granting, on an annual basis, a sales and use tax exemption for a project exceeding \$100,000,000. The bill would, instead, apply the sales and use tax exemption to the lease or transfer of title of tangible property constituting a project to any participating party.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. (a) The Governor's Office of Business and  
2 Economic Development, established pursuant to Section 12096.2  
3 of the Government Code, shall review and identify efficient and  
4 cost-effective methods for the state to create jobs in advanced  
5 manufacturing. In undertaking this review, the office shall consult  
6 with the Legislative Analyst's Office and engage other government  
7 and private sector stakeholders who have expertise in  
8 manufacturing, workforce development, education, and economic  
9 development. The Governor's Office of Business and Economic  
10 Development shall report its findings to the Legislature on or before  
11 January 1, 2017.

12 (b) A report submitted pursuant to subdivision (a) shall be  
13 submitted in compliance with Section 9795 of the Government  
14 Code.

15 SEC. 2. Section 26001 of the Public Resources Code is  
16 amended to read:

17 26001. The Legislature hereby finds and declares both of the  
18 following:

1 (a) It is essential that the state, in cooperation with the federal  
2 government, use all practical and commercially feasible means to  
3 promote the prompt and efficient development of energy sources  
4 which are renewable or which more efficiently utilize and conserve  
5 scarce energy resources.

6 (b) The promotion of sustainable and renewable energy sources,  
7 implementation of measures that increase the efficiency of the use  
8 of energy, and advanced transportation technologies that reduce  
9 the degradation of the environment and lessen the state's  
10 dependence of fossil fuels, and protect the health, welfare, and  
11 safety of the people of this state are in the public interest and serve  
12 a public purpose.

13 SEC. 3. Section 26001.5 of the Public Resources Code is  
14 repealed.

15 SEC. 4. Section 26002 of the Public Resources Code is  
16 amended to read:

17 26002. It is the purpose of this division to advance the state's  
18 goals of reducing the levels of greenhouse gas emissions, increasing  
19 the deployment of sustainable and renewable energy sources,  
20 implementing measures that increase the efficiency of the use of  
21 energy, creating high quality employment opportunities, and  
22 lessening the state's dependence on fossil fuels and to that end to  
23 provide an alternative method of financing in providing and  
24 promoting the establishment of both of the following:

25 (a) Facilities utilizing alternative methods and sources of energy.

26 (b) Facilities needed for the development and commercialization  
27 of advanced transportation technologies.

28 SEC. 5. Section 26003 of the Public Resources Code is  
29 amended to read:

30 26003. (a) As used in this division, unless the context  
31 otherwise requires:

32 (1) (A) "Advanced manufacturing" means manufacturing  
33 processes that improve existing, or create entirely new materials,  
34 products, and processes through the use of science, engineering,  
35 or information technologies, high-precision tools and methods, a  
36 high-performance workforce, and innovative business or  
37 organizational models utilizing any of the following technology  
38 areas:

39 (i) Micro- and nanoelectronics, including semiconductors.

40 (ii) Advanced materials.

1 (iii) Integrated computational materials engineering.

2 (iv) Nanotechnology.

3 (v) Additive manufacturing.

4 (vi) Industrial biotechnology.

5 (B) “Advanced manufacturing” includes all of the following:

6 (i) Systems that result from substantive advancement, whether  
7 incremental or breakthrough, beyond the current industry standard,  
8 in the production of materials and products. These advancements  
9 include improvements in manufacturing processes and systems  
10 that are often referred to as “smart” or “intelligent” manufacturing  
11 systems, which integrate computational predictability and  
12 operational efficiency.

13 (ii) (I) Sustainable manufacturing systems and manufacturing  
14 technologies that minimize the use of resources while maintaining  
15 or improving cost and performance.

16 (II) Sustainable manufacturing systems and manufacturing  
17 technologies do not include those required to be undertaken  
18 pursuant to state or federal law or regulations, air district rules or  
19 regulations, memoranda of understanding with a governmental  
20 entity, or legally binding agreements or documents. The State Air  
21 Resources Board shall advise the authority to ensure that the  
22 requirements of this clause are met.

23 (2) (A) “Advanced transportation technologies” means  
24 emerging commercially competitive transportation-related  
25 technologies identified by the authority as capable of creating  
26 long-term, high value-added jobs for Californians while enhancing  
27 the state’s commitment to energy conservation, pollution and  
28 greenhouse gas emissions reduction, and transportation efficiency.

29 (B) “Advanced transportation technologies” does not include  
30 those projects required to be undertaken pursuant to state or federal  
31 law or regulations, air district rules or regulations, memoranda of  
32 understanding with a governmental entity, or legally binding  
33 agreements or documents. The State Air Resources Board shall  
34 advise the authority regarding projects that are excluded pursuant  
35 to this subparagraph.

36 (3) (A) “Alternative sources” means devices or technologies  
37 used for a renewable electrical generation facility, as defined in  
38 paragraph (1) of subdivision (a) of Section 25741, a combined  
39 heat and power system, as defined in Section 2840.2 of the Public  
40 Utilities Code, distributed generation and energy storage

1 technologies eligible under the self-generation incentive program  
2 pursuant to Section 379.6 of the Public Utilities Code, as  
3 determined by the Public Utilities Commission, or a facility  
4 designed for the production of renewable fuels, the efficient use  
5 of which reduce the use of fossil or nuclear fuels, and energy  
6 efficiency devices or technologies that reduce the need for new  
7 electric generation and reduce emissions of toxic and criteria  
8 pollutants and greenhouse gases.

9 (B) “Alternative sources” does not include a hydroelectric  
10 facility that does not meet state laws pertaining to the control,  
11 appropriation, use, and distribution of water, including, but not  
12 limited to, the obtaining of applicable licenses and permits.

13 (4) “Authority” means the California Alternative Energy and  
14 Advanced Transportation Financing Authority established pursuant  
15 to Section 26004, and any board, commission, department, or  
16 officer succeeding to the functions of the authority, or to which  
17 the powers conferred upon the authority by this division shall be  
18 given.

19 (5) “Cost” as applied to a project or portion of the project  
20 financed under this division means all or part of the cost of  
21 construction and acquisition of all lands, structures, real or personal  
22 property or an interest in the real or personal property, rights,  
23 rights-of-way, franchises, easements, and interests acquired or  
24 used for a project; the cost of demolishing or removing any  
25 buildings or structures on land so acquired, including the cost of  
26 acquiring any lands to which those buildings or structures may be  
27 moved; the cost of all machinery, equipment, and furnishings,  
28 financing charges, interest prior to, during, and for a period after,  
29 completion of construction as determined by the authority;  
30 provisions for working capital; reserves for principal and interest  
31 and for extensions, enlargements, additions, replacements,  
32 renovations, and improvements; the cost of architectural,  
33 engineering, financial, accounting, auditing and legal services,  
34 plans, specifications, estimates, administrative expenses, and other  
35 expenses necessary or incident to determining the feasibility of  
36 constructing any project or incident to the construction, acquisition,  
37 or financing of a project.

38 (6) “Financial assistance” includes, but is not limited to, loans,  
39 loan loss reserves, interest rate reductions, proceeds of bonds issued  
40 by the authority, bond insurance, loan guarantees or other credit

1 enhancements or liquidity facilities, contributions of money, or a  
2 combination thereof, as determined by, and approved by the  
3 resolution of, the board.

4 (7) (A) “Participating party” means a person, federal or state  
5 agency, department, board, authority, or commission, state or  
6 community college, or university, or a city or county, regional  
7 agency, public district, school district, or other political entity  
8 engaged in the business or operations in the state, whether  
9 organized for profit or not for profit, that applies for financial  
10 assistance from the authority for the purpose of implementing a  
11 project.

12 (B) For the purposes of Section 6010.8 of the Revenue and  
13 Taxation Code, “participating party” means an entity specified in  
14 subparagraph (A) that seeks financial assistance pursuant to Section  
15 26011.8.

16 (8) (A) “Project” means a land, building, improvement to the  
17 land or building, rehabilitation, work, property, or structure, real  
18 or personal, stationary or mobile, including, but not limited to,  
19 machinery and equipment, whether or not in existence or under  
20 construction, that utilizes, or is designed to utilize, an alternative  
21 source, or that is utilized for the design, technology transfer,  
22 manufacture, production, assembly, distribution, or service of  
23 advanced transportation technologies or alternative source  
24 components.

25 (B) “Project,” for the purposes of Section 26011.8 and Section  
26 6010.8 of the Revenue and Taxation Code, means any tangible  
27 personal property that is utilized for the design, manufacture,  
28 production, or assembly of advanced manufacturing, advanced  
29 transportation technologies, or alternative source products,  
30 components, or systems.

31 (9) “Revenue” means all rents, receipts, purchase payments,  
32 loan repayments, and all other income or receipts derived by the  
33 authority from a project, or the sale, lease, or other disposition of  
34 alternative source or advanced transportation technology facilities,  
35 or the making of loans to finance alternative source or advanced  
36 transportation technology facilities, and any income or revenue  
37 derived from the investment of money in any fund or account of  
38 the authority.

39 (b) This section shall become inoperative on July 1, 2016, and,  
40 as of January 1, 2017, is repealed, unless a later enacted statute,

1 that becomes operative on or before January 1, 2017, deletes or  
2 extends the dates on which it becomes inoperative and is repealed.

3 SEC. 6. Section 26003 is added to the Public Resources Code,  
4 to read:

5 26003. (a) As used in this division, unless the context  
6 otherwise requires:

7 (1) (A) “Advanced transportation technologies” means  
8 emerging commercially competitive transportation-related  
9 technologies identified by the authority as capable of creating  
10 long-term, high value-added jobs for Californians while enhancing  
11 the state’s commitment to energy conservation, pollution and  
12 greenhouse gas emissions reduction, and transportation efficiency.

13 (B) “Advanced transportation technologies” does not include  
14 those projects required to be undertaken pursuant to state or federal  
15 law or regulations, air district rules or regulations, memoranda of  
16 understanding with a governmental entity, or legally binding  
17 agreements or documents. The State Air Resources Board shall  
18 advise the authority regarding projects that are excluded pursuant  
19 to this subparagraph.

20 (2) (A) “Alternative sources” means devices or technologies  
21 used for a renewable electrical generation facility, as defined in  
22 paragraph (1) of subdivision (a) of Section 25741, a combined  
23 heat and power system, as defined in Section 2840.2 of the Public  
24 Utilities Code, distributed generation and energy storage  
25 technologies eligible under the self-generation incentive program  
26 pursuant to Section 379.6 of the Public Utilities Code, as  
27 determined by the Public Utilities Commission, or a facility  
28 designed for the production of renewable fuels, the efficient use  
29 of which reduce the use of fossil or nuclear fuels, and energy  
30 efficiency devices or technologies that reduce the need for new  
31 electric generation and reduce emissions of toxic and criteria  
32 pollutants and greenhouse gases.

33 (B) “Alternative sources” does not include a hydroelectric  
34 facility that does not meet state laws pertaining to the control,  
35 appropriation, use, and distribution of water, including, but not  
36 limited to, the obtaining of applicable licenses and permits.

37 (3) “Authority” means the California Alternative Energy and  
38 Advanced Transportation Financing Authority established pursuant  
39 to Section 26004, and any board, commission, department, or  
40 officer succeeding to the functions of the authority, or to which



1 the powers conferred upon the authority by this division shall be  
2 given.

3 (4) “Cost” as applied to a project or portion of the project  
4 financed under this division means all or part of the cost of  
5 construction and acquisition of all lands, structures, real or personal  
6 property or an interest in the real or personal property, rights,  
7 rights-of-way, franchises, easements, and interests acquired or  
8 used for a project; the cost of demolishing or removing any  
9 buildings or structures on land so acquired, including the cost of  
10 acquiring any lands to which those buildings or structures may be  
11 moved; the cost of all machinery, equipment, and furnishings,  
12 financing charges, interest prior to, during, and for a period after,  
13 completion of construction as determined by the authority;  
14 provisions for working capital; reserves for principal and interest  
15 and for extensions, enlargements, additions, replacements,  
16 renovations, and improvements; the cost of architectural,  
17 engineering, financial, accounting, auditing and legal services,  
18 plans, specifications, estimates, administrative expenses, and other  
19 expenses necessary or incident to determining the feasibility of  
20 constructing any project or incident to the construction, acquisition,  
21 or financing of a project.

22 (5) “Financial assistance” includes, but is not limited to, loans,  
23 loan loss reserves, interest rate reductions, proceeds of bonds issued  
24 by the authority, bond insurance, loan guarantees or other credit  
25 enhancements or liquidity facilities, contributions of money, or a  
26 combination thereof, as determined by, and approved by the  
27 resolution of, the board.

28 (6) (A) “Participating party” means a person, federal or state  
29 agency, department, board, authority, or commission, state or  
30 community college, or university, or a city or county, regional  
31 agency, public district, school district, or other political entity  
32 engaged in the business or operations in the state, whether  
33 organized for profit or not for profit, that applies for financial  
34 assistance from the authority for the purpose of implementing a  
35 project.

36 (B) For the purposes of Section 6010.8 of the Revenue and  
37 Taxation Code, “participating party” means an entity specified in  
38 subparagraph (A) that seeks financial assistance pursuant to Section  
39 26011.8.

(7) (A) “Project” means a land, building, improvement to the land or building, rehabilitation, work, property, or structure, real or personal, stationary or mobile, including, but not limited to, machinery and equipment, whether or not in existence or under construction, that utilizes, or is designed to utilize, an alternative source, or that is utilized for the design, technology transfer, manufacture, production, assembly, distribution, or service of advanced transportation technologies or alternative source components.

(B) “Project,” for the purposes of Section 26011.8 and Section 6010.8 of the Revenue and Taxation Code, means any tangible personal property that is utilized for the design, manufacture, production, or assembly of advanced transportation technologies or alternative source products, components, or systems.

(8) “Revenue” means all rents, receipts, purchase payments, loan repayments, and all other income or receipts derived by the authority from a project, or the sale, lease, or other disposition of alternative source or advanced transportation technology facilities, or the making of loans to finance alternative source or advanced transportation technology facilities, and any income or revenue derived from the investment of money in any fund or account of the authority.

(b) This section shall become operative on July 1, 2016.

SEC. 7. Section 26008 of the Public Resources Code is amended to read:

26008. The authority may employ an executive director and any other persons as are necessary to enable it properly to perform the duties imposed upon it by this division. The executive director shall serve at the pleasure of the authority and shall receive such compensation as shall be fixed by the authority. The authority may, by resolution, delegate to its executive director, or any other employee of the authority, or the Treasurer’s designee any powers and duties that it may deem proper, including, but not limited to, the power to enter into contracts on behalf of the authority.

SEC. 8. Section 26009 of the Public Resources Code is amended to read:

26009. The authority may adopt, amend, or repeal all rules and regulations necessary to carry out this division as emergency regulations in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with

1 Section 11340) of Part 1 of Division 3 of Title 2 of the Government  
2 Code). The adoption, amendment, or repeal of the regulations is  
3 conclusively presumed to be necessary for the immediate  
4 preservation of the public peace, health, safety, or general welfare  
5 within the meaning of Section 11346.1 of the Government Code.

6 SEC. 9. Section 26011 of the Public Resources Code is  
7 amended to read:

8 26011. The authority is authorized and empowered:

9 (a) To adopt an official seal.

10 (b) To sue and be sued in its own name.

11 (c) To issue bonds, notes, bond anticipation notes, and other  
12 obligations of the authority, including, at the option of the  
13 authority, obligations bearing interest that is taxable for purposes  
14 of federal income taxation, for any of its purposes and to fund or  
15 refund the same, all as provided in this division.

16 (d) To determine the location and character of a project to be  
17 financed under the provisions of this division, to provide financial  
18 assistance to a participating party, to enter into loan agreements  
19 with a participating party for the financing of a project including  
20 creating a lien or security interest in the property, to construct,  
21 reconstruct, renovate, replace, lease, as lessor or lessee, and  
22 regulate the same, and to enter into contracts for the sale of a  
23 project, including installment sales or sales under conditional sales  
24 contracts.

25 (e) To fix fees and charges for projects, and interest rates with  
26 respect to loans for projects or for loan of moneys to finance  
27 projects, and to revise from time to time the fees and charges and  
28 interest rates, and to collect rates, rents, fees, loan repayments, and  
29 charges for the use of, and for a facility or service furnished, or to  
30 be furnished, by a project or part of the project and to contract with  
31 a person, partnership, association, corporation, or public agency  
32 with respect to the project, and to fix the terms and conditions  
33 upon which a project may be sold or disposed of, whether upon  
34 installment sales contracts or otherwise.

35 (f) To employ and fix the compensation of bond counsel,  
36 financial consultants, and advisers as may be necessary in its  
37 judgment in connection with the issuance and sale of any bonds,  
38 notes, bond anticipation notes, or other obligations of the authority;  
39 to contract to advance the purposes of this division.

(g) To purchase, with proceeds of its bonds or its revenue, bonds issued by a public agency at a public or negotiated sale. Bonds purchased pursuant to this subdivision may be held by the authority or sold to public or private purchasers at public or negotiated sales, in whole or in part, separately or together with other bonds issued by the authority.

(h) To do all things generally necessary or convenient to carry out the purposes of this division.

SEC. 10. Section 26011.5 of the Public Resources Code is repealed.

SEC. 11. Section 26011.6 of the Public Resources Code is repealed.

SEC. 12. Section 26011.8 of the Public Resources Code is amended to read:

26011.8. (a) The purpose of this section is to promote the creation of California-based manufacturing, California-based jobs, advanced manufacturing, the reduction of greenhouse gases, or reductions in air and water pollution or energy consumption. In furtherance of this purpose, the authority may approve a project for financial assistance in the form of the sales and use tax exclusion established in Section 6010.8 of the Revenue and Taxation Code.

(b) For purposes of this section, ~~the following terms have the following meanings:~~ “project” means a project as defined in subparagraph (B) of paragraph (8) of subdivision (a) of Section 26003.

~~(1) “Alternative source,” in addition to as provided pursuant to subparagraph (A) of paragraph (3) of subdivision (a) of Section 26003, includes advanced electric distributive generation technology as defined in Section 379.8 of the Public Utilities Code or energy storage technologies and their component materials.~~

~~(2) “Project” means a project as defined in subparagraph (B) of paragraph (8) of subdivision (a) of Section 26003.~~

(c) The authority shall publish notice of the availability of project applications and deadlines for submission of project applications to the authority.

(d) The authority shall evaluate project applications based upon all of the following criteria:

1 (1) The extent to which the project develops manufacturing  
2 facilities, or purchases equipment for manufacturing facilities,  
3 located in California.

4 (2) The extent to which the anticipated benefit to the state from  
5 the project equals or exceeds the projected benefit to the  
6 participating party from the sales and use tax exclusion.

7 (3) The extent to which the project will create new, permanent  
8 jobs in California.

9 (4) To the extent feasible, the extent to which the project, or the  
10 product produced by the project, results in a reduction of  
11 greenhouse gases, a reduction in air or water pollution, an increase  
12 in energy efficiency, or a reduction in energy consumption, beyond  
13 what is required by any federal or state law or regulation.

14 (5) The extent of unemployment in the area in which the project  
15 is proposed to be located.

16 (6) Any other factors the authority deems appropriate in  
17 accordance with this section.

18 (e) At a duly noticed public hearing, the authority shall approve,  
19 by resolution, project applications for financial assistance.

20 (f) Notwithstanding subdivision (k), and without regard to the  
21 actual date of any transaction between a participating party and  
22 the authority, any project approved by the authority by resolution  
23 for the sales and use tax exclusion pursuant to Section 6010.8 of  
24 the Revenue and Taxation Code prior to March 24, 2010, shall not  
25 be subject to this section.

26 (g) The Legislative Analyst's Office shall report to the Joint  
27 Legislative Budget Committee on the effectiveness of this program,  
28 on or before January 1, 2019, by evaluating factors, including, but  
29 not limited to, the following:

30 (1) The number of jobs created by the program in California.

31 (2) The number of businesses that have remained in California  
32 or relocated to California as a result of this program.

33 (3) The amount of state and local revenue and economic activity  
34 generated by the program.

35 (4) The types of advanced manufacturing, as defined in  
36 paragraph (1) of subdivision (a) of Section 26003, utilized.

37 (5) The amount of reduction in greenhouse gases, air pollution,  
38 water pollution, or energy consumption.

39 (h) The exclusions granted pursuant to Section 6010.8 of the  
40 Revenue and Taxation Code for projects approved by the authority

1 pursuant to this section shall not exceed one hundred million dollars  
2 (\$100,000,000) for each calendar year.

3 (i) (1) The authority shall study the efficacy and cost benefit  
4 of the sales and use tax exemption as it relates to advanced  
5 manufacturing projects. The study shall include the number of jobs  
6 created, the costs of each job, and the annual salary of each job.  
7 The study shall also consider a dynamic analysis of the economic  
8 output to the state that would occur without the sales and use tax  
9 exemption. Before January 1, 2017, the authority shall submit to  
10 the Legislature, consistent with Section 9795 of the Government  
11 Code, the result of the study.

12 (2) Before January 1, 2014, and within six months of any  
13 significant change to the net benefits test as described in  
14 subdivision (d), the authority shall work with the University of  
15 California or the California State University to perform a peer  
16 review of the net benefits test currently used to evaluate applicants  
17 applying pursuant to this section.

18 (3) Before January 1, 2015, the authority shall, consistent with  
19 Section 9795 of the Government Code, submit to the Legislature  
20 an interim report on the efficacy of the program conducted pursuant  
21 to this section. The study shall include recommendations on  
22 program changes that would increase the program's efficacy in  
23 creating permanent and temporary jobs, and whether eligibility  
24 for the program should be extended or narrowed to other  
25 manufacturing types. The authority may work with the Legislative  
26 Analyst's Office in preparing the report and its recommendations.

27 (j) (1) Except as provided in paragraph (2), this section shall  
28 become inoperative on July 1, 2016, and, as of January 1, 2017,  
29 is repealed, unless a later enacted statute, that becomes operative  
30 on or before January 1, 2017, deletes or extends the dates on which  
31 it becomes inoperative and is repealed. The sale or purchase of  
32 tangible personal property of a project approved prior to June 30,  
33 2016, shall continue to be excluded from sales and use taxes  
34 pursuant to Section 6010.8 of the Revenue and Taxation Code for  
35 the period of time set forth in the authority's resolution approving  
36 the project pursuant to this section.

37 (2) Notwithstanding paragraph (1), the authority's obligation  
38 to submit to the Legislature a report pursuant to paragraph (3) of  
39 subdivision (i) shall remain operative until the submission of the  
40 report.

SEC. 13. Section 26011.8 is added to the Public Resources Code, to read:

26011.8. (a) The purpose of this section is to promote the creation of California-based manufacturing, California-based jobs, the reduction of greenhouse gases, or reductions in air and water pollution or energy consumption. In furtherance of this purpose, the authority may approve a project for financial assistance in the form of the sales and use tax exclusion established in Section 6010.8 of the Revenue and Taxation Code.

(b) ~~(4)~~—For purposes of this section, “project” means a project as defined in subparagraph (B) of paragraph (7) of subdivision (a) of Section 26003.

~~(2) For purposes of this section, “alternative sources” also includes advanced electric distributive generation technology as defined in Section 379.8 of the Public Utilities Code or energy storage technologies and their component materials.~~

(c) The authority shall publish notice of the availability of project applications and deadlines for submission of project applications to the authority.

(d) The authority shall evaluate project applications based upon a net benefits test that includes all of the following criteria:

(1) The extent to which the project develops manufacturing facilities, or purchases equipment for manufacturing facilities, located in California.

(2) The extent to which the anticipated benefit to the state from the project equals or exceeds the projected benefit to the participating party from the sales and use tax exclusion.

(3) The extent to which the project will create new, permanent jobs in California.

(4) To the extent feasible, the extent to which the project, or the product produced by the project, results in a reduction of greenhouse gases, a reduction in air or water pollution, an increase in energy efficiency, or a reduction in energy consumption, beyond what is required by any federal or state law or regulation.

(5) The extent of unemployment in the area in which the project is proposed to be located.

(6) Any other factors the authority deems appropriate in accordance with this section.

(e) At a duly noticed public hearing, the authority shall approve, by resolution, project applications for financial assistance.

(f) Notwithstanding subdivision (k), and without regard to the actual date of any transaction between a participating party and the authority, any project as defined in paragraph (7) of subdivision (a) of Section 26003 approved by the authority by resolution for the sales and use tax exclusion pursuant to Section 6010.8 of the Revenue and Taxation Code prior to March 24, 2010, shall not be subject to this section.

(g) The Legislative Analyst's Office shall report to the Joint Legislative Budget Committee on the effectiveness of this program, on or before January 1, 2019, by evaluating factors, including, but not limited to, the following:

(1) The number of jobs created by the program in California.

(2) The number of businesses that have remained in California or relocated to California as a result of this program.

(3) The amount of state and local revenue and economic activity generated by the program.

(4) The amount of reduction in greenhouse gases, air pollution, water pollution, or energy consumption.

(h) The exclusions granted pursuant to Section 6010.8 of the Revenue and Taxation Code for projects approved by the authority pursuant to this section shall not exceed one hundred million dollars (\$100,000,000) for each calendar year.

(i) The authority shall make every effort to expedite the operation of this section, and shall adopt regulations for purposes of implementing the section as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For purposes of that Chapter 3.5, including Section 11349.6 of the Government Code, the adoption of the regulations shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health and safety, and general welfare.

(j) If any significant changes are made to the net benefits test, as described in subdivision (d), the authority shall work with the University of California or the California State University to perform a peer review of the net benefits test currently used to evaluate applicants applying pursuant to this section.

(k) This section shall become operative on July 1, 2016, and shall remain in effect only until January 1, 2021, and as of that date is repealed. The sale or purchase of tangible personal property



1 of a project approved prior to January 1, 2021, shall continue to  
2 be excluded from sales and use taxes pursuant to Section 6010.8  
3 of the Revenue and Taxation Code for the period of time set forth  
4 in the authority's resolution approving the project pursuant to this  
5 section.

6 SEC. 14. Section 26012 of the Public Resources Code is  
7 repealed.

8 SEC. 15. Section 26013 of the Public Resources Code is  
9 repealed.

10 SEC. 16. Section 26014 of the Public Resources Code is  
11 amended to read:

12 26014. When the principal of and interest on bonds of the  
13 authority issued to finance or refund the cost of a particular project  
14 for a participating party shall have been fully paid and retired or  
15 when adequate provision shall have been made for the payment  
16 and retirement of the same, and all other conditions of the  
17 resolution, indenture, or agreement authorizing and securing the  
18 same shall have been satisfied and the lien of such resolution,  
19 indenture, or agreement shall have been released in accordance  
20 with the provisions thereof, the authority is authorized, upon such  
21 terms and conditions as may be prescribed by the authority, to  
22 execute such deeds and conveyances as are necessary or required  
23 to convey title to such project to such participating party.

24 SEC. 17. Section 26015 of the Public Resources Code is  
25 amended to read:

26 26015. (a) The authority, or the executive director of the  
27 authority, if authorized to do so by resolution of the authority, shall  
28 take official action towards the issuance of bonds with respect to  
29 any participating party at the next meeting of the authority  
30 occurring more than 30 days following receipt of such application  
31 or if by the executive director within 45 days of such receipt. The  
32 executive director may be authorized to take such action in a  
33 resolution of general authority. Official action towards the issuance  
34 of bonds may reserve the right of the authority to further review  
35 an application for financing and to consider the terms thereof prior  
36 to the issuance of bonds therefor.

37 (b) The authority shall take final action to approve or disapprove  
38 of the issuance of bonds or notes to lend financial assistance to  
39 participating parties within 60 days of the receipt by the authority  
40 of a request from such participating party for such action. Any

1 such request by a participating party for such final action shall be  
2 accompanied by evidence of fulfillment of any and all conditions  
3 to the issuance of such bonds or notes imposed at the time the first  
4 action towards the issuance thereof was taken by the authority and  
5 by copies of forms of all principal legal documents to be approved  
6 by the authority.

7 (c) The authority may give final approval for the issuance of  
8 such bonds or notes upon such terms as it reasonably deems  
9 necessary or desirable.

10 (d) Any action under this section shall be at the sole discretion  
11 of the authority.

12 SEC. 18. Section 26016 of the Public Resources Code is  
13 repealed.

14 SEC. 19. Section 26016.5 of the Public Resources Code is  
15 repealed.

16 SEC. 20. Section 26017 of the Public Resources Code is  
17 amended to read:

18 26017. The authority, no later than March 31 of each year,  
19 shall submit to the Legislature a report of its activities for the  
20 preceding calendar year ending December 31. Such report shall  
21 include (a) a listing of the applications received, (b) a listing of  
22 the applications accepted for financing, (c) a specification of bonds  
23 sold, interest rates thereon, and whether bond sales were pursuant  
24 to public bid or were negotiated, (d) a specification of the amount  
25 of bonds authorized but currently unsold, (e) a projection of the  
26 authority's needs and requirements for the coming year, and (f) a  
27 report of revenues and expenditures for the preceding fiscal year.

28 SEC. 21. Section 26020 of the Public Resources Code is  
29 repealed.

30 SEC. 22. Section 26021 of the Public Resources Code is  
31 repealed.

32 SEC. 23. Section 26022 of the Public Resources Code is  
33 amended to read:

34 26022. (a) The authority is authorized from time to time to  
35 issue its negotiable bonds, notes, debentures, or other securities  
36 (hereinafter collectively called "bonds") for any of its purposes.  
37 The bonds may be authorized, without limiting the generality of  
38 the foregoing, to finance a single project for a single participating  
39 party, a series of projects for a single participating party, a single  
40 project for several participating parties, or several projects for

1 several participating parties, or the purchase and sale of alternative  
2 source energy or projects pursuant to subdivision (g) of Section  
3 26011. The authority may issue negotiable bond anticipation notes  
4 and may renew the notes from time to time. The bond anticipation  
5 notes may be paid from the proceeds of sale of the bonds of the  
6 authority in anticipation of which they were issued. Notes and  
7 agreements relating to the notes and bond anticipation notes,  
8 collectively called notes, and the resolution or resolutions  
9 authorizing the notes may contain any provisions, conditions, or  
10 limitations that a bond, agreement relating to the bond, and bond  
11 resolution of the authority may contain. However, a note or renewal  
12 of the note shall mature at a time not exceeding three years from  
13 the date of issue of the original note.

14 (b) Except as may otherwise be expressly provided by the  
15 authority, every issue of its bonds, notes, or other obligations shall  
16 be general obligations of the authority payable from any revenues  
17 or moneys of the authority available for these purposes and not  
18 otherwise pledged, subject only to any agreements with the holders  
19 of particular bonds, notes, or other obligations pledging any  
20 particular revenues or moneys and subject to any agreements with  
21 any participating party. Notwithstanding that the bonds, notes, or  
22 other obligations may be payable from a special fund, they are for  
23 all purposes negotiable instruments, subject only to the provisions  
24 of the bonds, notes, or other obligations for registration.

25 (c) The bonds may be issued as serial bonds or as term bonds,  
26 or the authority, in its discretion, may issue bonds of both types.  
27 The bonds shall be authorized by resolution of the authority and  
28 shall bear the date or dates, mature at the time or times, not  
29 exceeding 50 years from their respective dates, bear interest at the  
30 fixed rate or rates, or at the variable rates, including multiple  
31 methods of setting rates from time to time while the bonds are  
32 outstanding, be payable at the time or times, be in the  
33 denominations, be executed in a manner, be payable in lawful  
34 money of the United States of America at a place or places, and  
35 be subject to terms of redemption or tender, as the resolution or  
36 resolutions may provide. The bonds or notes shall be sold by the  
37 Treasurer as agent for sale. The sales may be a public or private  
38 sale, and for the price or prices and on the terms and conditions,  
39 as the authority shall determine after giving due consideration to  
40 the recommendations of any participating party to be assisted from

1 the proceeds of the bonds or notes. Pending preparation of the  
2 definitive bonds, the Treasurer may issue interim receipts,  
3 certificates, or temporary bonds that shall be exchanged for the  
4 definitive bonds. The Treasurer may sell bonds, notes, or other  
5 evidence of indebtedness at a price below their par value. However,  
6 the discount on a security sold pursuant to this section shall not  
7 exceed 6 percent of the par value.

8 (d) A resolution or resolutions authorizing bonds or an issue of  
9 bonds may contain provisions that shall be a part of the contract  
10 with the holders of the bonds or any credit provider to be  
11 authorized, as to all of the following:

12 (1) Pledging the full faith and credit of the authority or pledging  
13 all or part of the revenues of a project or a revenue-producing  
14 contract or contracts made by the authority with an individual,  
15 partnership, corporation, or association or other body, public or  
16 private, or other moneys of the authority, to secure the payment  
17 of the bonds or of any particular issue of bonds, subject to the  
18 agreements with bondholders as may then exist.

19 (2) The rentals, fees, purchase payments, loan repayments, and  
20 other charges to be charged, and the amounts to be raised in each  
21 year by the charges, and the use and disposition of the revenues.

22 (3) The setting aside of reserves or sinking funds, and the  
23 regulation and disposition of the reserves or sinking funds.

24 (4) Limitations on the right of the authority or its agent to restrict  
25 and regulate the use of the project or projects to be financed out  
26 of the proceeds of the bonds or any particular issue of bonds.

27 (5) Limitations on the purpose to which the proceeds of sale of  
28 an issue of bonds then or thereafter to be issued may be applied  
29 and pledging those proceeds to secure the payment of the bonds  
30 or the issue of the bonds.

31 (6) Limitations on the issuance of additional bonds, the terms  
32 upon which additional bonds may be issued and secured, and the  
33 refunding of outstanding bonds.

34 (7) The procedure, if any, by which the terms of a contract with  
35 bondholders may be amended or abrogated, the amount of bonds  
36 the holders of which must consent to the amendment or abrogation,  
37 and the manner in which that consent may be given.

38 (8) Limitations on expenditures for operating, administrative,  
39 or other expenses of the authority.

1 (9) Defining the acts or omissions to act that constitute a default  
2 in the duties of the authority to holders of its obligations and  
3 providing the rights and remedies of the holders in the event of a  
4 default.

5 (10) The mortgaging of a project and the site of the project for  
6 the purpose of securing the bondholders.

7 (11) The mortgaging of land, improvements, or other assets  
8 owned by a participating party for the purpose of securing the  
9 bondholders.

10 (12) Provisions for the security of any provider of credit  
11 enhancement supporting payment on the bonds, but only in a  
12 manner subordinate to the right of bondholders.

13 (e) Neither the members of the authority nor a person executing  
14 the bonds or notes shall be liable personally on the bonds or notes  
15 or be subject to personal liability or accountability by reason of  
16 the issuance of the bond or note.

17 (f) The authority shall have power out of any funds available  
18 for these purposes to purchase its bonds or notes without the  
19 cancellation thereof. The authority may hold, pledge, cancel, or  
20 resell those bonds, subject to and in accordance with agreements  
21 with bondholders.

22 SEC. 24. Section 26023 of the Public Resources Code is  
23 amended to read:

24 26023. In the discretion of the authority, any bonds issued  
25 under the provisions of this division may be secured by a trust  
26 agreement by and between the authority and a corporate trustee  
27 or trustees, which may be the State Treasurer or any trust company  
28 or bank having the powers of a trust company within or without  
29 the state. Such trust agreement or the resolution providing for the  
30 issuance of such bonds may pledge or assign the revenues to be  
31 received or proceeds of any contract or contracts pledged and may  
32 convey or mortgage the project or projects, or any portion thereof,  
33 to be financed out of the proceeds of such bonds. Such trust  
34 agreement or resolution providing for the issuance of such bonds  
35 may contain such provisions for protecting and enforcing the rights  
36 and remedies of the bondholders or any credit provider as may be  
37 reasonable and proper and not in violation of law, including  
38 particularly such provisions as have hereinabove been specifically  
39 authorized to be included in any resolution or resolutions of the  
40 authority authorizing bonds thereof. Any bank or trust company

1 doing business under the laws of this state which may act as  
2 depositary of the proceeds of bonds or of revenues or other moneys  
3 may furnish such indemnifying bonds or pledge such securities as  
4 may be required by the authority. Any such trust agreement may  
5 set forth the rights and remedies of the bondholders and of the  
6 trustee or trustees, and may restrict the individual right of action  
7 by bondholders or any credit provider. In addition to the foregoing,  
8 any such trust agreement or resolution may contain such other  
9 provisions as the authority may deem reasonable and proper for  
10 the security of the bondholders or any credit provider.  
11 Notwithstanding any other provision of law, the State Treasurer  
12 shall not be deemed to have a conflict of interest by reason of  
13 acting as trustee pursuant to this division. All expenses incurred  
14 in carrying out the provisions of such trust agreement or resolution  
15 may be treated as a part of the cost of the operation of a project.

16 SEC. 25. Section 26024 of the Public Resources Code is  
17 amended to read:

18 26024. Bonds issued under the provisions of this division shall  
19 not be deemed to constitute a debt or liability of the state or of any  
20 political subdivision thereof, other than the authority, or a pledge  
21 of the faith and credit of the state or of any such political  
22 subdivision, other than the authority, but shall be payable solely  
23 from the funds herein provided therefor. All such bonds shall  
24 contain on the face thereof a statement to the following effect:

25 “Neither the faith and credit nor the taxing power of the State  
26 of California or any local agency is pledged to the payment of the  
27 principal of or interest on this bond.”

28 The issuance of bonds under the provisions of this division shall  
29 not directly or indirectly or contingently obligate the state or any  
30 political subdivision thereof to levy or to pledge any form of  
31 taxation whatever therefor or to make any appropriation for their  
32 payment. Nothing contained in this section shall prevent nor be  
33 construed to prevent the authority from pledging its full faith and  
34 credit to the payment of bonds or issue of bonds authorized  
35 pursuant to this division.

36 SEC. 26. Section 26025 of the Public Resources Code is  
37 amended to read:

38 26025. (a) The authority is hereby authorized to provide for  
39 the issuance of bonds of the authority for the purpose of refunding,  
40 directly or indirectly, any bonds, notes, or other evidence of

1 indebtedness of the authority or any public agency then  
2 outstanding, including the payment of any redemption premium  
3 thereon and any interest accrued or to accrue to the earliest or  
4 subsequent date of redemption, purchase, or maturity of such  
5 bonds, and, if deemed advisable by the authority, for the additional  
6 purpose of paying all or any part of the cost of constructing and  
7 acquiring additions, improvements, extensions, or enlargements  
8 of a project or any portion thereof.

9 (b) The proceeds of any such bonds issued for the purpose of  
10 refunding outstanding bonds, notes, or other securities may, in the  
11 discretion of the authority, be applied to the purchase or retirement  
12 at maturity or redemption of such outstanding bonds either on their  
13 earliest or any subsequent redemption date or upon the purchase  
14 or retirement at the maturity thereof and may, pending such  
15 application, be placed in escrow to be applied to such purchase or  
16 retirement at maturity or redemption on such date as may be  
17 determined by the authority.

18 (c) Pending such use, any such escrowed proceeds may be  
19 invested and reinvested by the State Treasurer or any trustee in  
20 instruments as may be specified in the resolution or indenture  
21 governing the bonds to be refunded, maturing at such time or times  
22 as shall be appropriate to ensure the prompt payment, as to  
23 principal, interest, and redemption premium, if any, of the  
24 outstanding bonds to be so refunded. The interest, income, and  
25 profits, if any, earned or realized on any such investment may also  
26 be applied to the payment of the outstanding bonds to be so  
27 refunded. After the terms of the escrow have been fully satisfied  
28 and carried out, any balance of such proceeds and interest, income,  
29 and profits, if any, earned or realized on the investments thereof  
30 may be returned to the authority for use by it in any lawful manner.

31 (d) All such bonds shall be subject to the provisions of this  
32 division in the same manner and to the same extent as other bonds  
33 issued pursuant to this division. Prior to refunding bonds or  
34 evidence of indebtedness not originally issued by the authority,  
35 the authority shall make findings that the project being refinanced  
36 qualifies as a project as defined in subparagraph (A) of paragraph  
37 (8) of subdivision (a) of Section 26003 until June 30, 2016, and  
38 as of July 1, 2016, as defined in subparagraph (A) of paragraph  
39 (7) of subdivision (a) of Section 26003.

1 SEC. 27. Section 26026 of the Public Resources Code is  
2 repealed.

3 SEC. 28. Section 26027 of the Public Resources Code is  
4 repealed.

5 SEC. 29. Section 26030 of the Public Resources Code is  
6 amended to read:

7 26030. The authority may contract with any participating party  
8 for the construction or acquisition of a project by such participating  
9 party. All such contracts for the construction or acquisition of a  
10 project by a participating party shall provide that the participating  
11 party shall be responsible for the architectural and engineering  
12 design and for the construction and completion thereof, subject to  
13 such standards for architectural and engineering design as may be  
14 established, and subject to such supervision as the authority deems  
15 necessary. The authority may agree to pay the cost of such project  
16 constructed or acquired by any participating party and to advance  
17 such costs from time to time in installments or otherwise as  
18 required by the contract for the construction or acquisition thereof.  
19 Title to all such projects may be vested in the authority subject to  
20 the terms of any lease thereof to the participating party or the rights  
21 of a participating party under any contract for the purchase or  
22 acquisition of such project including the payment of the purchase  
23 price under installment sales contracts.

24 SEC. 30. Section 26033 of the Public Resources Code is  
25 amended to read:

26 26033. All moneys received pursuant to the provisions of this  
27 division, whether as proceeds from the sale of bonds, notes, or  
28 other evidences of indebtedness or as revenues, or as fees received  
29 by the authority, shall be deemed to be trust funds to be held and  
30 applied solely as provided in this division. Any bank or trust  
31 company with which such moneys shall be deposited shall act as  
32 trustee of such moneys and shall hold and apply the same for the  
33 purposes hereof, subject to such regulations as the resolution  
34 authorizing the bonds of any issue or the trust agreements securing  
35 such bonds may provide.

36 SEC. 31. Section 26034 of the Public Resources Code is  
37 amended to read:

38 26034. Any holder of bonds, notes, or other obligations issued  
39 under the provisions of this division, and the trustee or trustees  
40 under any trust agreement, except to the extent the rights herein



1 given may be restricted by any resolution authorizing the issuance  
2 of, or any such trust agreement securing, such bonds, notes, or  
3 other obligations, may, either at law or in equity, by suit, action,  
4 mandamus, or other proceedings, protect and enforce any and all  
5 rights under the laws of the state or granted hereunder or under  
6 such resolution or trust agreements, and may enforce and compel  
7 the performance of all duties required by this division or by such  
8 resolution or trust agreement to be performed by the authority or  
9 by any officer, employee, or agent thereof, including the fixing,  
10 charging, and collecting of the rates, rents, fees, and charges herein  
11 authorized and required by the provisions of such resolution or  
12 trust agreement to be fixed, established, and collected.

13 SEC. 32. Section 26035 of the Public Resources Code is  
14 amended to read:

15 26035. The exercise of the powers granted by this division  
16 shall be in all respects for the benefit of the people of this state,  
17 for their health and welfare, and protection of the state's  
18 environment. Any bonds, notes, or other obligations issued under  
19 the provisions of this division, their transfer and the income  
20 therefrom, shall at all times be free from taxation of every kind by  
21 the state and by municipalities and other political subdivisions of  
22 the state.

23 SEC. 33. Chapter 4 (commencing with Section 26050) is added  
24 to Division 16 of the Public Resources Code, to read:

25  
26 CHAPTER 4. PROPERTY ASSESSED CLEAN ENERGY (PACE) AND  
27 CLEAN ENERGY FINANCING PROGRAM  
28

29 Article 1. General Provisions and Definitions  
30

31 26050. (a) The Legislature finds and declares all of the  
32 following:

33 (1) Property Assessed Clean Energy (PACE) financing has been  
34 pioneered by municipalities and counties in California as a way  
35 for homeowners and small business owners to finance voluntary  
36 energy and water efficiency and clean energy improvements.

37 (2) PACE financing was pioneered in the City of Berkeley,  
38 while the City and County of San Francisco, City of San Diego,  
39 City of Palm Desert, Sonoma County, and the California Statewide

1 Communities Development Authority (CSCDA) have already  
2 initiated or are working to launch additional programs.

3 (3) Seventeen other states, including Colorado and New York,  
4 have also enacted enabling PACE legislation.

5 (4) The public subsidy provided by the PACE financing is  
6 justified by the benefits received in job creation, lower energy  
7 demand, and spurring new clean industries that will grow the  
8 economy.

9 (b) It is the intent of the Legislature to assist local jurisdictions  
10 in financing the installation of distributed generation renewable  
11 energy sources, electric vehicle charging infrastructure, or energy  
12 or water efficiency improvements that are permanently fixed to  
13 real property through the use of voluntary contractual assessments.

14 (c) It is not the intent of the Legislature to create any debt,  
15 liability, or obligation on the part of the state in assisting local  
16 jurisdictions pursuant to this division.

17 26050.5. The Legislature further finds and declares both of the  
18 following:

19 (a) Actions by federally chartered home loan entities have  
20 frustrated efforts to accelerate the implementation of the PACE  
21 financing program, creating a need to establish effective alternative  
22 approaches that can be rapidly deployed to advance the purposes  
23 of this division.

24 (b) Among the most promising alternatives that can be  
25 implemented rapidly are those intended to increase access to capital  
26 for projects that advance the purposes of this division.

27 26051. Unless the context otherwise requires, the definitions  
28 in this article govern the construction of this chapter.

29 26052. “Applicant” means, for the purposes of Article 2  
30 (commencing with Section 26060), a public agency as defined in  
31 paragraph (3) of subdivision (c) of Section 5898.20 of the Streets  
32 and Highways Code and, for the purposes of Article 3  
33 (commencing with Section 26070), a financial institution providing  
34 a loan pursuant to that chapter to finance the installation of  
35 distributed generation renewable energy sources, electric vehicle  
36 charging infrastructure, or energy or water efficiency  
37 improvements.

38 26053. “Clean Energy Upgrade Program” means a statewide  
39 energy and water efficiency and renewable energy generation  
40 building retrofit financing program developed by the State Energy

1 Resources Conservation and Development Commission and the  
2 authority pursuant to Section 26070.

3 26054. “Property Assessed Clean Energy bond” or “PACE  
4 bond” means a bond that is secured by any of the following:

5 (a) A voluntary contractual assessment on property authorized  
6 pursuant to paragraph (2) of subdivision (a) of Section 5898.20 of  
7 the Streets and Highways Code.

8 (b) A voluntary contractual assessment or a voluntary special  
9 tax on property to finance the installation of distributed generation  
10 renewable energy sources, electric vehicle charging infrastructure,  
11 or energy or water efficiency improvements that is levied pursuant  
12 to a chartered city’s constitutional authority under Section 5 of  
13 Article XI of the California Constitution.

14 (c) A special tax on property authorized pursuant to subdivision  
15 (b) of Section 53328.1 of the Government Code.

16 26055. “PACE program” means a program established by an  
17 applicant that is financed by the PACE bond.

18 26056. This chapter does not create any liability or obligation  
19 upon the State of California and none shall be incurred by the  
20 authority beyond the extent to which moneys shall have been  
21 provided under this division. The authority shall not create any  
22 debt, liability, or obligation on the part of the State of California  
23 payable from any source whatsoever other than the moneys  
24 provided under this chapter.

25  
26 Article 2. PACE Reserve Program  
27

28 26060. The authority shall develop and administer a PACE  
29 Reserve program to reduce overall costs to the property owners  
30 of PACE bonds issued by an applicant by providing a reserve of  
31 no more than 10 percent of the initial principal amount of the PACE  
32 bond.

33 26061. To qualify for assistance pursuant to this chapter, the  
34 PACE program shall require all of the following:

35 (a) The interest rate on the PACE bond does not exceed a  
36 percentage as determined by the authority to be appropriate.

37 (b) Minimum legal loan structure and credit underwriting criteria  
38 as determined by the authority are met.

1 (c) Proceeds of the PACE bonds are used to finance qualified  
2 energy and water efficiency, electric vehicle charging  
3 infrastructure, and clean energy improvements.

4 (d) The improvement financed is for a residential project of  
5 three units or fewer, or a commercial project that costs less than  
6 twenty-five thousand dollars (\$25,000) in total.

7 26062. An applicant shall submit to the authority an application  
8 providing a detailed description of the PACE program, a detailed  
9 description of the transactional activities associated with the PACE  
10 bond issuance, including all transactional costs, and other  
11 information deemed necessary by the authority.

12 26063. (a) In evaluating eligibility, the authority shall consider  
13 whether the applicant's PACE program includes the following  
14 conditions:

15 (1) Loan recipients are legal owners of underlying property.

16 (2) Loan recipients are current on mortgage and property tax  
17 payments.

18 (3) Loan recipients are not in default or in bankruptcy  
19 proceedings.

20 (4) Loans are for less than 10 percent of the value of the  
21 property.

22 (5) The property is within the geographical boundaries of the  
23 PACE program.

24 (6) The program offers financing for energy efficiency  
25 improvements or electric vehicle charging infrastructure.

26 (7) Improvements financed by the program follow applicable  
27 standards of energy efficiency retrofit work, including any  
28 guidelines adopted by the State Energy Resources Conservation  
29 and Development Commission.

30 (b) In evaluating an application, the authority shall consider all  
31 of the following factors:

32 (1) The use by the PACE program of best practices, adopted by  
33 the authority, to qualify eligible properties for participation in  
34 underwriting the PACE program.

35 (2) The cost efficiency of the applicant's PACE program,  
36 including bond issuance.

37 (3) The projected number of jobs created by the PACE program.

38 (4) The applicant's PACE program requirements for quality  
39 assurance and consumer protection as related to achieving  
40 efficiency and clean energy production.

1 (5) The mechanisms by which savings produced by this program  
2 are passed on to the property owners.

3 (6) Any other factors deemed appropriate by the authority.

4 26064. The authority shall review the applicant's PACE bond  
5 issuance, including, but not limited to, indenture, trust agreement,  
6 and fiscal agent agreement ("the bond documents") and, when the  
7 authority is satisfied that the bond documents are consistent with  
8 the requirements of the PACE Reserve program established  
9 pursuant to this chapter, the authority shall advance to the applicant  
10 or the applicant's bond trustee, at the closing of the applicant's  
11 PACE bonds, the amount made available from the Renewable  
12 Resource Trust Fund and approved by the authority for use in the  
13 PACE bond's reserve fund under the bond documents. Prior to the  
14 disbursement of moneys pursuant to this section into a reserve  
15 fund, the authority shall enter into an agreement with the applicant  
16 regarding the creation and operation of the reserve fund, including  
17 the manner in which the authority will be repaid for any moneys  
18 disbursed to the reserve fund.

19  
20 Article 3. Clean Energy Upgrade Program  
21

22 26070. The authority shall administer a Clean Energy Upgrade  
23 Program to reduce overall costs to the property owners of a loan  
24 provided by an applicant to finance the installation of distributed  
25 generation renewable energy sources, electric vehicle charging  
26 infrastructure, or energy or water efficiency improvements that  
27 are permanently fixed to real property by providing a reserve or  
28 other financial assistance at a level to be determined by the State  
29 Energy Resources Conservation and Development Commission  
30 and the authority. Improvements financed pursuant to this program  
31 shall be for a residential project of three units or fewer or a  
32 commercial project that costs less than twenty-five thousand dollars  
33 (\$25,000) in total.

34 26071. (a) The authority shall adopt regulations governing the  
35 implementation of this chapter, including quality assurance  
36 pursuant to subdivision (b) of Section 26072, at a publicly noticed  
37 meeting. Notwithstanding any other law, regulations adopted  
38 pursuant to this section may be adopted as emergency regulations  
39 pursuant to Chapter 3.5 (commencing with Section 11340) of Part  
40 1 of Division 3 of Title 2 of the Government Code.

(b) For the purposes of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, including Section 11349.6 of that code, the Office of Administrative Law shall consider the adoption of the regulations pursuant to subdivision (a) to be necessary for the immediate preservation of the public peace, health and safety, and general welfare.

26072. (a) An applicant shall submit to the authority an application providing a detailed description of the loan program to finance the installation of distributed generation renewable energy sources, electric vehicle charging infrastructure, or energy or water efficiency improvements on real property, a detailed description of the transactional activities associated with the loan issuance, including all transactional costs, and other information deemed necessary by the authority.

(b) The authority shall ensure that all improvements financed by the program meet quality assurance standards developed by the authority in consultation with the State Energy Resources Conservation and Development Commission. The standards shall include contractor certification and third-party inspection of an appropriate portion of completed projects to ensure project performance and consumer protection.

26073. (a) In evaluating eligibility, the authority shall consider whether the applicant's loan program includes the following conditions:

(1) Loan recipients are legal owners of underlying property.

(2) Loan recipients are current on mortgage and property tax payments.

(3) Loan recipients are not in default or in bankruptcy proceedings.

(4) Loans are for less than 10 percent of the value of the property.

(5) The program offers financing for energy and water efficiency improvements.

(6) Improvements financed by the program follow applicable standards of energy efficiency retrofit work, including any guidelines adopted by the State Energy Resources Conservation and Development Commission.

(b) In evaluating an application, the authority shall consider all of the following factors:

1 (1) The use by the loan program of best practices, adopted by  
2 the authority, to qualify eligible properties for participation in  
3 underwriting the loan program.

4 (2) The cost efficiency of the applicant's loan program.

5 (3) The projected number of jobs created by the loan program.

6 (4) The applicant's loan program requirements for quality  
7 assurance and consumer protection, as related to achieving  
8 efficiency and clean energy production, in accordance with the  
9 standards developed pursuant to subdivision (b) of Section 26072.

10 (5) The mechanisms by which savings produced by this program  
11 are passed on to the property owners.

12 (6) Any other factors deemed appropriate by the authority.

13 (c) The authority may approve a loan program that offers  
14 financing for electric vehicle charging infrastructure if the electric  
15 vehicle charging infrastructure is part of a project to install energy  
16 efficiency improvements and distributed generation renewable  
17 energy resources and is designed so that the project does not  
18 increase peak energy demand.

19 26074. (a) The authority shall require certification from a loan  
20 applicant that each loan offered pursuant to the applicant's loan  
21 program is consistent with the requirements of the Clean Energy  
22 Upgrade Program administered pursuant to this chapter.

23 (b) If the conditions of subdivision (a) are satisfied, the authority  
24 shall allocate to the applicant, at the closing of the loan, the amount  
25 made available from the Renewable Resource Trust Fund in the  
26 form of financial assistance as approved by the State Energy  
27 Resources Conservation and Development Commission and the  
28 authority. Prior to providing financial assistance pursuant to this  
29 section, the authority shall enter into an agreement with the  
30 applicant regarding the financial assistance, including the process  
31 for the possible return of moneys disbursed to or on behalf of the  
32 applicant.

#### 33 34 Article 4. Appropriation and Reporting 35

36 26080. (a) Until January 1, 2015, an amount of up to fifty  
37 million dollars (\$50,000,000) from the Renewable Resource Trust  
38 Fund, established pursuant to Section 25751, is hereby appropriated  
39 to the authority for the purposes of this chapter. The moneys

1 appropriated shall remain in the Renewable Resource Trust Fund  
2 until the funds are needed by the authority pursuant to this chapter.

3 (b) Of the moneys appropriated in subdivision (a), up to five  
4 hundred fifty thousand dollars (\$550,000) may be expended by  
5 the authority for the initial administrative costs in implementing  
6 this chapter.

7 (c) All repayments of moneys disbursed pursuant to this chapter  
8 shall be deposited into the Renewable Resource Trust Fund.

9 26081. (a) On March 31, 2011, and annually thereafter, the  
10 authority shall submit to the Legislature a report pursuant to Section  
11 9795 of the Government Code on all of the following:

12 (1) The status of the account.

13 (2) A summary of the PACE bonds that received assistance  
14 pursuant to Article 2 (commencing with Section 26060) and a  
15 summary of the loans that received assistance pursuant to Article  
16 3 (commencing with Section 26070).

17 (3) A summary of the benefits provided by this division,  
18 including reduced interest rates on the PACE bonds or on loans  
19 receiving assistance pursuant to this division.

20 (4) The number of jobs created by the PACE programs or loans  
21 that received assistance pursuant to this chapter.

22 (5) Information on energy and water savings resulting from the  
23 PACE programs or loans that received assistance pursuant to this  
24 chapter.

25 (6) Other information deemed appropriate by the authority.

26 (b) This section shall remain in effect only until January 1, 2015,  
27 and as of that date is repealed, unless a later enacted statute, that  
28 is enacted before January 1, 2015, deletes or extends that date.

29 26082. (a) Notwithstanding Section 26080, twenty-five million  
30 dollars (\$25,000,000) of the unencumbered balance of the fifty  
31 million dollars (\$50,000,000) that was appropriated to the authority  
32 pursuant to Section 26080 and is in the Renewable Resource Trust  
33 Fund is hereby appropriated to the Energy Conservation Assistance  
34 Account established pursuant to Section 25416.

35 (b) Notwithstanding Section 25421, any unexpended funds  
36 appropriated pursuant to subdivision (a) remaining in the Energy  
37 Conservation Assistance Account on and after January 1, 2013,  
38 except to the extent those funds are encumbered pursuant to Section  
39 25417.5, shall revert to the Renewable Resource Trust Fund and  
40 be available to the authority for the purposes of this chapter.



1 SEC. 34. Division 16.2 (commencing with Section 26100) of  
2 the Public Resources Code is repealed.

3 SEC. 35. Section 6010.8 of the Revenue and Taxation Code  
4 is amended to read:

5 6010.8. (a) “Sale” and “purchase” do not include any lease or  
6 transfer of title of tangible personal property constituting any  
7 project to any participating party. As used in this section, “project”  
8 has the meaning specified in subparagraph (B) of paragraph (8)  
9 of subdivision (a) of Section 26003 of the Public Resources Code  
10 and “participating party” has the meaning specified in subparagraph  
11 (B) of paragraph (7) of subdivision (a) of Section 26003 of the  
12 Public Resources Code.

13 (b) This section shall become inoperative on July 1, 2016, and,  
14 as of January 1, 2017, is repealed, unless a later enacted statute,  
15 that becomes operative on or before January 1, 2017, deletes or  
16 extends the dates on which it becomes inoperative and is repealed.

17 SEC. 36. Section 6010.8 is added to the Revenue and Taxation  
18 Code, to read:

19 6010.8. (a) “Sale” and “purchase” do not include any lease or  
20 transfer of title of tangible personal property constituting any  
21 project to any participating party. As used in this section, “project”  
22 has the meaning specified in subparagraph (B) of paragraph (7)  
23 of subdivision (a) of Section 26003 of the Public Resources Code  
24 and “participating party” has the meaning specified in subparagraph  
25 (B) of paragraph (6) of subdivision (a) of Section 26003 of the  
26 Public Resources Code.

27 (b) This section shall become operative on July 1, 2016.